IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

SUMMONS FOR JUDGMENT NO.87 OF 2007
IN
SUMMARY SUIT NO.3584 OF 2006

Dashmesh CNG Inpex Pvt. Ltd. ...Plaintiff.
Vs.
Shri Vivek Pandey. ...Defendant.

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Mr.Prasad Pathak i/b. Rajesh D. Bindra for the Plaintiff.
None for the Defendant.

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CORAM : DR.D.Y.CHANDRACHUD, J.
4th June 2007.

P.C.:

The suit under Order 37 of the Code of Civil Procedure, 1908, has been instituted for the recovery of an amount of Rs.3,65,000/- being the balance due and payable under two invoices dated 10th August 2005 and 22nd September 2005 together with interest at the rate of 18% per annum. Part payment of Rs.65,000/- having been made by the Defendant, the balance due and payable thereunder is stated to be Rs.3,65,000/-. The Plaintiff supplied CNG Kits to the Defendant. Copies of the delivery challans are at Exhs.A-1 to A-4 while copies of the invoices are at Exhs.B-1 and B-2 to the plaint. Cheques were issued by the Defendant in order to clear the liability. The cheques

were, however, dishonoured on presentation. A complaint under Section 138 of the Negotiable Instruments Act, 1881 was issued thereafter by the Plaintiff. By a Judgment and Order dated 1st August 2006, the Metropolitan Magistrate, 30th Court at Kurla, acquitted the Defendant on the ground that the notice had been addressed to the Defendant at an incorrect address and that the notice had not been addressed by a Director of the Company.

Upon the judgment of acquittal, a notice of demand was addressed by the Plaintiff to the Defendant on 14th September 2006 to which there was no reply. The Summons for Judgment came up for hearing on 23rd April 2007 on which date, the Defendant was represented by an Advocate. On the request of the Defendant, the hearing of the Summons for Judgment was adjourned to today, with the direction that the reply wasto be filed within a period of two weeks of the date of the previous order. No reply has been filed to the Summons for Judgment and the Advocate appearing on behalf of the Defendant is absent. The Defendant having failed to file a reply to the Summons for Judgment, disclosing adequate and sufficient grounds in defence to the claim in the suit, the Plaintiff would be entitled to a decree in

terms of the provisions of Order 37 of the Code of Civil Procedure, 1908. The claim of the Plaintiff arises out of goods sold, supplied and delivered and fallsl within the purview of the provisions of Order 37 of the Code of Civil Procedure, 1908. The Summons for Judgment is accordingly made absolute and the suit shall stand decreed in the amount of Rs.3,65,000/-. The Plaintiff would also be entitled to interest at the rate of 9% per annum from the date of the suit, until payment or realisation.

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